

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER

ITA No. 2640/Del/2022
(Assessment Year : 2017-18)

Ashish Seth Khasra No.41, 42, 44, 45 Seth Farms, Githorni, South West, New Delhi-30 PAN No. AAAPS 9216 L (APPELLANT)	Vs.	ITO Circle – 9(1), C.R. Building New Delhi (RESPONDENT)
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Assessee by	Shri Rajan Sachdeva, C.A.
Revenue by	Shri Om Prakash, Sr. D.R.

Date of hearing:	15.12.2022
Date of Pronouncement:	17.01.2023

ORDER

PER ANIL CHATURVEDI, AM:

This appeal filed by the Assessee is directed against the order of the Ld. Commissioner of Income Tax (Appeals), Delhi, dated 21.09.2022 in DIN and Order No. ITBA/NFAC/S/250/2022-23/1045777997(1), relating to the A.Y. 2017-18 passed under section 250 of the I.T. Act, 1961.

2. Brief facts of the case as culled out from the material on record are as under:-

3. Assessee is an individual who electronically filed his return of income for A.Y. 2017-18 on 29.07.2017 declaring total income of Rs.9,07,200/-. The case of the assessee was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order dated 04.12.2019 and the total income was determined at Rs.16,84,200/-. Aggrieved by the order of AO, assessee carried the matter before National Faceless Appeal Centre (NFAC), Delhi and order was passed by NFAC on 21.09.2022 in DIN & Order No.ITBA/NFAC/S/250/2022-23/104577797(1) wherein the appeal was dismissed. Aggrieved by the order of NFAC, assessee was now in appeal and has raised the following grounds:

1. *“The assessee filed the return of income of Rs.9,07,200/-. During the course of assessment under section 142(1) the AO was added Rs.7,77,000/- as income due to the deposit of cash in the bank. The CIT(A) confirms the addition on the basis of the AO’s order.*
2. *On the arbitrary basis out of the total deposit Rs.10.27 lakhs Rs.7,77,000/- was added back as an ad hoc addition.*
3. *The AO addition of Rs.7,77,000/- and the CIT(A) erred in upholding this ad hoc an arbitrary addition.”*

4. Though the assessee was raised various grounds but the sole controversy is with respect to the addition of Rs.7,77,000/- on account of cash deposit in the bank account.

5. During the course of assessment proceedings, AO noticed that assessee had deposited a cash of Rs.10,27,000/- during the demonetization period between 9th November 2016 to 31st December 2016. Assessee was asked to explain the source of cash

deposit to which assessee *inter alia* submitted that it was out of cash in hand. The submissions of the assessee was not found acceptable to AO. AO after considering the submissions of the assessee granted credit of Rs.2.50 lakhs and the remaining Rs.7,77,000/- was considered to be out of undisclosed income and made its addition u/s 69A and levied tax u/s 115BBE of the Income Tax Act, 1961. Aggrieved by the order of AO, assessee carried the matter before NFAC who confirmed the order of the AO. Aggrieved by the order of NFAC, assessee is now in appeal.

6. Before me, Learned AR reiterated the submissions made before AO/CIT(A) and further submitted that assessee had opening cash balance of Rs.14,85,784/- and the cash deposits have been made out of the opening balances. In support of his contention, he pointed to the Cash Ledger placed at page 4 of the paper book and from that he pointed to the summary of opening cash balance, deposits, withdrawal from house hold expenses and balances. From the aforesaid chart he pointed to the fact that out of the opening cash balances and deposits, assessee had made withdrawals from house hold expenses and there was sufficient balance from which assessee had deposited the cash back in his bank account. He thereafter, submitted that the submissions of the assessee were discarded by the AO without there being any material to prove that the submissions of the assessee are factually incorrect. In support of his contentions, he also placed reliance on various decisions including the decisions of Delhi Tribunal in the case of Mr. Atish Singla vs. ITO in ITA

No.1185/Del/2021 order dated 06.04.2022. He placed on record the copy of the aforesaid decision. He therefore submitted that considering the aforesaid facts, the addition made by AO and upheld by CIT(A) be deleted.

7. Learned DR on the other hand supported the order of lower authorities.

8. I have heard the rival submissions and perused the material on record. The issue in the present ground is with respect to the addition made on account of cash deposits during the demonetization period. Assessee has placed on record the copy of Cash Ledger which shows the opening cash balance of Rs.14,85,784/- which also shows that assessee has been withdrawing Rs.75,000/- from time to time from house hold expenses and also made deposits and withdrawals. The submissions of the assessee of the cash being deposited were out of the withdrawals made has not been proved to be false by the Revenue by placing any material on record. I further find that the Co-ordinate Bench of Tribunal in the case of Atish Singla (supra) after placing reliance on the various decisions cited therein has held that no addition could be made on account of unexplained cash deposits. Before me, no material has been placed on record by the Revenue to demonstrate that the ratio of the aforesaid decisions would not applicable to the present facts of the case. Considering the totality of the aforesaid facts, I am of the view that the AO was not justified in making the addition of

Rs.7,77,000/- and direct its deletion and I therefore **thus the ground of assessee is allowed.**

9. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 17.01.2023

**Sd/-
(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:- 17.01.2023
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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI